

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

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|---------------------------|---|------------------------|
| REX LYLE HYMEL, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | Case No. CIV-14-0273-F |
| |) | |
| KAMERON HARVENEK, Warden, |) | |
| |) | |
| Respondent. |) | |

ORDER

Petitioner, a state prisoner appearing *pro se* whose pleadings are liberally construed, brings this action seeking habeas relief under 28 U.S.C. § 2254.

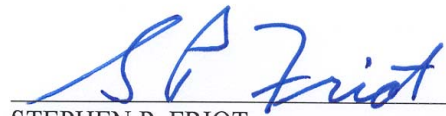
The magistrate judge entered a Report and Recommendation in this matter on April 23, 2014 (the Report), recommending the petition be dismissed without prejudice after preliminary review, for failure to exhaust available state judicial remedies. Doc. no. 9. The Report also recommends that petitioner's motion for appointment of counsel be denied.

Petitioner filed an objection to the Report on May 6, 2014. Doc. no. 13. The court reviews all objected to issues *de novo*. After *de novo* review, and having considered defendant's objection, the court concurs with the magistrate judge's determinations and concludes that it would not be useful to cite any additional arguments or authorities here. Accordingly, the Report and Recommendation is **ACCEPTED, ADOPTED** and **AFFIRMED** in its entirety. After preliminary review, this action is **DISMISSED** without prejudice for failure to exhaust available state judicial remedies. Petitioner's motion for appointment of counsel is **DENIED**. Doc. no. 6.

Petitioner filed two motions after the entry of the Report. The first of these is an application to proceed *in forma pauperis*. Doc. no. 11. Petitioner has already paid the filing fee. For this reason, and also because this order dismisses this action, petitioner's motion to proceed *in forma pauperis* is **DENIED** as moot. Petitioner's other recent motion seeks appointment of counsel. Doc. no. 12. This motion is redundant of the earlier-filed motion for appointment of counsel, already denied. The recently-filed motion for appointment of counsel is **DENIED**.

A certificate of appealability is **DENIED**.

Dated this 21st day of May, 2014.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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